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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

GBFX, LLC and GOLD & BENNETT, LLC,

Defendants.

CIVIL ACTION NO.: 11-cv-06241-PGG

SUPPLEMENTAL CONSENT ORDER OF
CIVIL MONETARY PENALTY
AGAINST DEFENDANTS GBFX, LLC
AND GOLD & BENNETT, LLC

On September 7, 2011, Plaintiff U.S. Commodity Futures Trading Commission (the "Commission" or "Plaintiff") filed a Complaint for Permanent Injunction, Civil Monetary Penalties, and Other Equitable Relief ("Complaint") against Defendants GBFX, LLC ("GBFX") and Gold & Bennett, LLC ("Gold & Bennett") (collectively, "Defendants") seeking injunctive and other equitable relief, as well as the imposition of a civil monetary penalty, for violations of the Commodity Exchange Act ("Act"), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 1 *et seq.*, and Commission Regulations ("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (2011). (D.E. 1). On December 21, 2011, the Court entered a Consent Order of Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendants GBFX and Gold & Bennett ("Consent Order"), leaving the civil monetary penalty to be determined by the parties within ninety (90) days after entry of the Consent Order or, in the alternative, by the Court. (D.E. 8). This

Supplemental Consent Order of CMP ("Supplemental Consent Order") sets forth the amount of the civil monetary penalty the parties agree should be paid by Defendants.

I. CONSENTS AND AGREEMENTS

To resolve the remaining issues of civil monetary penalty and post-judgment interest (as provided in Section IV of the Consent Order), without trial on the merits or any further judicial proceedings, Defendants GBFX and Gold & Bennett:

1. Consent to the entry of this Supplemental Consent Order;
2. Affirm that authorized representatives of GBFX and Gold & Bennett have read and agreed to this Supplemental Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Supplemental Consent Order;
3. Acknowledge proper service of the Summons and Complaint;
4. Admit the jurisdiction of this Court over GBFX and Gold & Bennett and the subject matter of this action pursuant to Section 6c(a) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1(a), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder;
5. Admit the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1;

6. Admit that venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §13a-1(e);

7. Waive:

a. Any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission Regulations ("Regulations"), 17 C.F.R. §§ 148.1 *et seq.* (2011), relating to, or arising from, this action;

b. Any and all legal claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-68 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this action;

c. Any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing a civil monetary penalty or any other relief, including this Supplemental Consent Order; and

d. Any and all rights of appeal from this Supplemental Consent Order;

8. Consent to the continued jurisdiction of this Court over GBFX and Gold & Bennett for the purpose of implementing and enforcing the terms and conditions of this Supplemental Consent Order and for any other purpose relevant to this action, even if GBFX or Gold & Bennett now or in the future reside outside the jurisdiction of this Court;

9. Agree that GBFX and Gold & Bennett will not oppose enforcement of this Supplemental Consent Order on the ground that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and waives any objection based thereon;

10. Agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or Findings of Fact or Conclusions of Law contained in any prior Consent Order and/or in this Supplemental Consent Order, or creating or tending to create, the impression that the Complaint or Findings of Fact or Conclusions of Law contained in any prior Order and/or in this Supplemental Consent Order are without a factual basis; provided, however, that nothing in this provision shall affect their (a) testimonial obligations or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants GBFX and Gold & Bennett shall take all necessary steps to ensure that all of their agents or employees under their authority or control understand and comply with this agreement;

11. By consenting to the entry of this Supplemental Consent Order, Defendants neither admit nor deny the allegations of the Complaint or the Findings of Fact or Conclusions of Law made in this Supplemental Consent Order or the Consent Order, except as to jurisdiction and venue, which they admit. Further, GBFX and Gold & Bennett agree and intend that the allegations contained in the Complaint and all of the Findings of Fact and Conclusions of Law contained in the Consent Order and/or in this Supplemental Consent Order shall be taken as true and correct and be given preclusive effect, without further proof, in the course of: (a) any current or subsequent bankruptcy proceeding filed by, on behalf of, or against them; (b) any proceeding pursuant to Section 8a of the Act, as amended, to be codified at 7 U.S.C. § 12a, and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1 *et seq.* (2011); and/or (c) any proceeding to enforce the terms of this Supplemental Consent Order or the Consent Order;

12. Agree to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 20 of this Supplemental Consent Order, of any

bankruptcy filed by, on behalf of, or against GBFX and/or Gold & Bennett, whether inside or outside the United States; and

13. Agree that no provision of this Supplemental Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against GBFX and Gold & Bennett in any other action or proceeding.

II. THE PARTIES TO THIS SUPPLEMENTAL CONSENT ORDER

14. Plaintiff U.S. Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act, as amended by the CRA, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2011).

15. Defendant **GBFX, LLC** is a corporation with its principal place of business located at 48 Wall Street, 7th Floor, New York, New York, 10005. GBFX was incorporated in the state of New York on June 15, 2009. GBFX has never been registered with the Commission in any capacity.

16. Defendant **Gold & Bennett, LLC**, is a corporation with its principal place of business located at 48 Wall Street, 7th Floor, New York, New York, 10005. Gold & Bennett was incorporated in the state of New York on April 17, 2008. Gold & Bennett has never been registered with the Commission in any capacity.

III. CIVIL MONETARY PENALTY

IT IS ORDERED that:

17. Defendants shall pay, jointly and severally, a civil monetary penalty in the amount of seventy thousand dollars, \$70,000 ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation commencing on the date of entry of this Supplemental Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Supplemental Consent Order pursuant to 28 U.S.C. § 1961 (2006).

18. Defendants shall pay their CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the U.S. Commodity Futures Trading Commission and sent to the address below:

U.S. Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables – AMZ 340
E-mail box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

If payment is to be made by electronic funds transfer, Defendants shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Defendants shall accompany the payment of the CMP Obligation with a cover letter that identifies Defendants and the name and docket number of this proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Three Lafayette Center, U.S. Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, DC 20581.

19. Partial Satisfaction: Any acceptance by the Commission of partial payment of Defendants' CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Supplemental Consent Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

IV. MISCELLANEOUS PROVISIONS

IT IS FURTHER ORDERED that:

20. Notices: All notices required to be given by any provision in this Supplemental Consent Order shall be sent certified mail, return receipt requested, as follows:

Notice to the Commission:

U.S. Commodity Futures Trading Commission
Division of Enforcement
Attention:
David Meister, Director
Paul Hayeck, Associate Director
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Notice to Defendants GBFX and Gold & Bennett:

Felix Shipkevich
Shipkevich PLLC
483 Broadway
Fifth Floor
New York, NY 10013

All such notices to the Commission shall reference the name and docket number of this action.

21. Change of Address/Phone: Until such time as Defendants satisfy in full their CMP Obligation as set forth in this Supplemental Consent Order, Defendants shall provide written notice to the Commission by certified mail of any change to their telephone number and mailing address within ten (10) calendar days of the change.

22. Entire Agreement and Amendments: The Consent Order and Supplemental Consent Order incorporate all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify the Consent Order or this Supplemental Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

23. Invalidation: If any provision of this Supplemental Consent Order or if the application of any provision or circumstance is held invalid, then the remainder of this Supplemental Consent Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

24. Waiver: The failure of any party to this Supplemental Consent Order to require performance of any provision of this Supplemental Consent Order shall in no manner affect the right of the party at a later time to enforce the same or any other provision of this Supplemental Consent Order. No waiver in one or more instances of the breach of any provision contained in this Supplemental Consent Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Supplemental Consent Order.

25. Acknowledgements: Upon being served with copies of this Supplemental Consent Order after entry by the Court, Defendants shall sign acknowledgements of such service and serve such acknowledgements on the Court and the Commission within 7 calendar days.

26. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this action for the purpose of: implementing and enforcing the terms and conditions of the Consent Order and Supplemental Consent Order and for any other purpose related to this action.

27. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Supplemental Consent Order shall be binding upon Defendants, upon any person under their authority or control, and upon any person who receives actual notice of this Supplemental Consent Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Defendants.

28. Authority: Ronald Goldfine hereby warrants that he is the principal of GBFX and Gold & Bennett, that this Supplemental Consent Order has been duly authorized by GBFX and Gold & Bennett, and that he has been duly empowered to sign and submit this Supplemental Consent Order on behalf of GBFX and Gold & Bennett.

29. Counterparts and Facsimile Execution: This Supplemental Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail, or otherwise) to the other party, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Supplemental Consent Order that is delivered by any means shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Supplemental Consent Order.

30. GBFX and Gold & Bennett understand that the terms of the Supplemental Consent Order are enforceable through contempt proceedings, and that, in any such proceedings, they may not challenge the validity of this Supplemental Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Supplemental Consent Order of Civil Monetary Penalty Against Defendants GBFX, LLC and Gold & Bennett, LLC.*

SO ORDERED:

Paul G. Gardephe May 15, 2012
Hon. Paul G. Gardephe
Judge, U.S. District Court

CONSENTED TO:

Dated: April 4th, 2012

GBFX, LLC and Gold & Bennett, LLC

By: [Signature]

Printed Name: Ronald Goldstein

Title: President

NOTARY:

On April 4, 2012, Ronald Goldstein a person known to me, personally
appeared before me and acknowledged executing the foregoing Consent.

By: [Signature]

Printed Name: Felix Shipkevich

My Commission Expires: 09/27/2015

APPROVED AS TO FORM:

Dated: April 4, 2012

By: [Signature]

Felix Shipkevich

Felix Shipkevich
Shipkevich PLLC
483 Broadway
Fifth Floor
New York, NY 10013

Dated: April __, 2012

Respectfully submitted,

By: 

Attorneys for Plaintiff
UNITED STATES COMMODITY
FUTURES TRADING COMMISSION

John Einstman (jeinstman@cftc.gov)
Chief Trial Attorney
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581
Telephone: (202) 418-5337
Facsimile: (202) 418-5523

Joseph Rosenberg (jrosenberg@cftc.gov)
Senior Trial Attorney
Eastern Regional Office
140 Broadway, 19th Floor
New York, New York 10005
Telephone: (646) 746-9765
Facsimile: (646) 746-9940